



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

525 WEST JEFFERSON ST. • SPRINGFIELD, ILLINOIS 62761 • (217) 782-3516 FAX: (217) 785-4111

DOCKET NO: H-09	BOARD MEETING: December 10, 2012	PROJECT NO: 12-058	PROJECT COST: Original: \$2,368,350
FACILITY NAME: US Renal Care Lemont Dialysis		CITY: Lemont	
TYPE OF PROJECT: Substantive			HSA: VII

PROJECT DESCRIPTION: USRC Lemont, LLC, USRC Alliance, LLC, and US Renal Care, Inc. (the applicants) are proposing to establish a 13-station End Stage Renal Dialysis (ESRD) facility located in 6,500 GSF of leased space in Lemont. The cost of the project is \$2,368,350.

The State Board Staff notes the project was originally scheduled to be heard at the October 30-31, 2012 IHFSRB meeting. The review period was extended by the State Board staff per 1130.640 (a). The State Board Staff expressed concern that it appears that some of the same patient referral base are being used for both project #12-059, U.S. Renal Care Plainfield Dialysis, and the proposed project #12-058. State Board rule requires that the patient referrals can only be used for one project.

The table below appeared in both applications. The five physicians identified the same number of referrals from these three zip codes for both applications. The applicants did not provide an explanation.

Zip Code	Dr. Ahmed	Dr. Gurfinchel	Dr. Kravets	Dr. Mehta	Dr. Nagarkatte
60403	2	1	2	1	2
60432	1	1	1	1	1
60435	5	4	5	4	5
Total	8	6	8	6	8

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- U.S. Renal Care, Inc., USRC Alliance, LLC, and USRC Lemont, LLC (the applicants) are proposing to establish a 13-station End Stage Renal Dialysis (ESRD) facility in 6,500 GSF of leased space in Lemont.
- The cost of the project is \$2,368,350.
- **The anticipated project completion date is April 1, 2013.**

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- To establish a health care facility as defined by Illinois Health Facilities Planning Act.

PURPOSE OF THE PROJECT:

- To keep dialysis services accessible to a growing ESRD population in Suburban Cook County (HSA-07).
- To accommodate 80 pre-ESRD patients identified by the applicant, needing ESRD services in the 24 months following project completion, and meet a current need for 61 ESRD stations in HSA-07.

NEED:

- To establish a dialysis service
 1. there must be a calculated need in the planning area;
 2. the proposed service must provide service to planning area residents;
 3. there must be a demand for the service in the planning area;
 4. the proposed service must improve access;
 5. the proposed service will not cause an unnecessary duplication of service or maldistribution of service; and,
 6. will not reduce the utilization of other area providers.
- HSA-VII currently has a calculated need for 61 ESRD stations.
- It appears that the proposed facility will provide service to planning area residents as 100% of the pre-ESRD patients reside in the planning area.
- There appears to be demand for this service in the planning area as 80 pre-ESRD patients have been identified that will need dialysis care within the next 1-3 years.
- There are existing providers within 30 minutes (10) that are currently not at the target occupancy of 80%

BACKGROUND/COMPLIANCE ISSUES

- The applicants have previously been approved for four Illinois dialysis facilities: Permit #11-024 US Renal Care Oak Brook Dialysis, Permit #11-025 US Renal Care Bolingbrook Dialysis, Permit #11-026 US Renal Care Streamwood Dialysis, and #12-026 US Renal Care Villa Park Dialysis.
- No charity care information has been provided for the applicants because the facilities identified above have not been completed. All four projects are expected to be completed by February 2013. Once these facilities are operating Net Revenue, Charity Care, and Medicaid information will be provided.

- The applicants have no outstanding compliance issues with the State Board.

PUBLIC HEARING/COMMENT

- A Public Hearing was conducted on August 23, 2012, at the Lemont Township Office. Two attendees registered as being opposed to the proposed project; and 9 attendees registered their support. The State Board Staff has received a number of support letters and letters of opposition to the proposed project.
- **Sun Health stated in opposition that** *"There is simply no need for the proposed US Renal Lemont Facility. It will simply cause duplication and maldistribution without improving access. Sun Health has consistently voiced its opposition to various CON applications for dialysis that have failed to meet the state's own need criteria. According to a legal newsletter, 2010 was reportedly a "year to remember for ESRD companies that applied for CON permit or exemption". The Board approved 100% of the 35 applications it considered in 2010. Since then, the Board has however demonstrated its willingness to reject unnecessary projects, such as Fresenius Lockport, Fresenius Aurora, and Davita Crest Hill. The Board can take a firm stand, and can help prevent unnecessary duplication and maldistribution by not approving new facilities and stations when current providers have existing station capacity to meet the needs of new dialysis patients; Sun Health would therefore urge the Board to reject this CON perm if application."*
- **Kidney Care Center stated in opposition** *"Our facility, which offers peritoneal dialysis and will soon offer Home-Hemo Dialysis, is located less than 10 minutes away from the proposed location, to this date Northeast Nephrology Consultants that are listed as Joint Venture Partners have not referred a single patients to our facility. According to the data that was submitted on this application Northeast Nephrology Consultants as a group of 5 physicians have only 1 ESRD patient that resides in Lemont. Why are they proposing a Dialysis facility in Lemont? The applicants are manipulating the rules and regulations that are set by the Illinois health facilities board. The applicants are using a reported need in HSA 7 to claim the need for HSA 9 patients as a justification for this proposed project. The applicants have less than a 2% population of their ESRD patients that were listed on this application in the HSA service area 7."*
- **Illinois State Senator, Maggie Crotty, Oak Forest, stated** *"Southern Cook County and Will County have seen tremendous growth in recent years, both in population and diversity." "As more people move to the area, the will undoubtedly be a higher demand for all healthcare services, including dialysis treatment." "As the population continues to grow, it will also continue to age." "Baby boomers and seniors represent a considerable percent of the area's population." Since kidney disease most often affects the elderly and chronically ill, we need more facilities like the one proposed by US Renal Care in order to meet the growing need for dialysis services."*

FINANCIAL AND ECONOMIC FEASIBILITY

- The entirety of the project will be funded through internal sources (Cash and Securities/Fair Market Value of the Leases and a review of the financial statements indicate sufficient cash is available to fund the project.

CONCLUSIONS:

- There is a calculated need for 61 stations in the HSA-7 ESRD service area and the applicants justify this project based upon this calculated need. Of the 15 facilities located within 30 minutes 10 are currently not operating at the target occupancy of 80%. Average utilization of the 15 facilities is 75.30%. The applicants addressed a total of 16 criteria and failed to meet the following:

State Board Standards Not Met	
Criteria	Reasons for Non-Compliance
1110.1430 - Planning Area Need	There are 15 facilities located within 30 minutes of the proposed facility of these 15 facilities 10 facilities (60%) are currently not operating at the target occupancy of 80%.
1110.1430 - Unnecessary Duplication of Service/Maldistribution	There are 15 facilities located within 30 minutes of the proposed facility of these 15 facilities 10 facilities (60%) are currently not operating at the target occupancy of 80%.



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STATE BOARD STAFF REPORT
US Renal Lemont Dialysis, Lemont
PROJECT #12-058

Applicants	USRC Lemont, LLC USRC Alliance, LLC US Renal Care, Inc.
Facility Name	US Renal Care Lemont Dialysis
Location	Lemont
Application Received	June 19, 2012
Application Deemed Complete	June 25, 2012
Can Applicants Request Another Deferral?	Yes

I. The Proposed Project

The State Board is being asked to consider the establishment of a 13-station ESRD facility in Lemont. The proposed facility will be located in 6,500 GSF of leased space, and the cost of the project is \$2,368,350. **The anticipated project completion date is April 1, 2013.**

II. Summary of Findings

- A. The State Board Staff finds the proposed project does **not** appear to be in conformance with the provisions of Part 1110.
- B. The State Board Staff finds the proposed project appears to be in conformance with the provisions of Part 1120.

III. General Information

The proposed facility will be located at 1096 South State Street, Lemont. The applicants are USRC Lemont, LLC, USRC Alliance, LLC, and US Renal Care, Inc. US Renal Care, Inc is the parent organization for all the entities and Lemont Plaza Partners, LLC owns the site. USRC Lemont, LLC is the operating entity/licensee. The proposed facility will be located in HSA VII. HSA VII is comprised of DuPage and Suburban Cook Counties. The September 2012 update to the IDPH Inventory of Health Care Facilities ("Inventory") shows a computed need for 61 ESRD stations in HSA-07.

There is no land acquisition cost for this project, as the proposed facility will be

leased space with the interior being built out by the applicant. This is a substantive project subject to both a Part 1110 and Part 1120 review. Project obligation will occur after permit issuance. **The anticipated project completion date is April 1, 2013.**

IV. The Proposed Project - Details

The applicants propose to establish a 13 station ESRD facility in 6,500 Gross Square Feet ("GSF") of leased space. The proposed facility will be located in Lemont (HSA-07), and the applicants note that it will build out the interior of the leased space. The total estimated project cost is \$2,368,350.

V. Project Costs and Sources of Funds

The total estimated project cost is \$2,368,350. The proposed project is being funded with cash and securities totaling \$1,082,534, leases with a Fair Market Value of \$1,285,816. Table One outlines the project's costs and uses of funds.

TABLE ONE			
Project Uses and Sources of Funds			
Uses of Funds	Clinical	Non-Clinical	Total
Modernization Contracts	\$715,000	\$0	\$715,000
A & E Fees	\$55,000	\$0	\$55,000
Consulting & Other Fees	\$30,000	\$0	\$30,000
Moveable or Other Equipment	\$82,555	\$109,437	\$191,992
FMV of Leased Space Equipment	\$1,285,816	\$0	\$1,215,816
Other Costs to be Capitalized	\$90,542	\$0	\$90,542
Total Uses of Funds	\$2,258,913	\$109,437	\$2,368,350
Sources of Funds	Clinical	Non-Clinical	Total
Cash and Securities	\$973,097	\$109,437	\$1,082,534
Leases (fair market value)	\$1,285,816	\$0	\$1,285,816
Total Sources of Funds	\$2,258,913	\$109,437	\$2,368,350

VI. Cost/Space Requirements

Table Two displays the project's cost/space requirements for the project. The clinical portion comprises approximately 100% of the cost and GSF.

TABLE TWO

US Renal Care Lemont Dialysis-Cost/Space Allocation							
Clinical Department	Cost	Existing GSF	Proposed GSF	New	Modernized	Vacated	As Is
ESRD	\$2,368,350	0	6,500	0	6,500	0	0
Total	\$2,368,350	0	6,500	0	6,500	0	0

VII. Section 1110.230 - Project Purpose, Background and Alternatives

A. Criterion 1110.230(a) - Background of Applicant

The Criterion states:

- "1) An applicant must demonstrate that it is fit, willing and able, and has the qualifications, background and character, to adequately provide a proper standard of health care service for the community. [20 ILCS 3960/6] In evaluating the qualifications, background and character of the applicant, HFPB shall consider whether adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by such person or entity (refer to 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").**

The applicant provided a list of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, a certified statement from the applicant that no adverse action has been taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application, and authorization permitting HFPB and Illinois Department of Public Health (IDPH) access to any documents necessary to verify the information submitted. The applicants appear fit, willing and able and have the qualifications, background and character to adequately provide a proper standard of healthcare service for the community.

B. Safety Net Impact Statement/Charity Care

The applicants note this particular project will actually have a positive impact on the ability of other providers and health care systems to cross-subsidize safety net services in the community and service area. As the availability of outpatient

dialysis services become scarce, hospitals are sometimes forced to delay patient discharges while attempting to procure necessary dialysis services in the community. The proposed project seeks to make additional outpatient dialysis services available it will help facilitate more timely hospital discharges and will result in greater opportunities for hospitals to provide additional safety net and charity care services.

The applicants currently do not have any facilities operating in Illinois. The applicants have been approved for 4 projects (#11-024, #11-025, #11-026, and #12-026) and all four projects are scheduled to be completed no later than February 2013. The applicants did provide Charity Care and Medicaid information at the corporate level for U.S. Renal Care in Table Three.

TABLE THREE			
SAFETY NET INFORMATION			
U.S. Renal Care, Inc.			
CHARITY CARE			
	2009	2010	2011
Charity (# of treatments)	1,056	1,922	2,305
Charity (cost in dollars)	\$281,536	\$521,535	\$595,473
MEDICAID			
	2009	2010	2011
Medicaid (# of treatments)	17,967	29,744	40,586
Medicaid (Revenue)	\$3,956,318	\$6,740,875	\$9,382,740
PAYOR MIX			
	Year 1	Year 2	Year 3
Billed Govt. Patients	27	59	62
Billed Commercial Patients	3	4	4
Billed Non-Govt. Low Income Patients	0	0	0
TOTAL PATIENTS	30	63	66
CHARITY CARE INFORMATION			
	Year 1	Year 2	Year 3
Net Revenue	\$488,520	\$2,259,980	\$3,127,080
Bad Debt/Charity Care	\$15,144	\$70,059	\$96,939
Ratio of Bad Debt to Net Revenue	0.031	0.031	0.031

C. Criterion 1110.230(b) - Purpose of the Project

The Criterion states:

The applicant shall document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area or market area, or other, per the applicant's definition.

- 1) The applicant shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project. Examples of such information include:
 - A) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population, higher or lower fertility rates) that may affect the need for services in the future;
 - B) The population's morbidity or mortality rates;
 - C) The incidence of various diseases in the area;
 - D) The population's financial ability to access health care (e.g., financial hardship, increased number of charity care patients, changes in the area population's insurance or managed care status);
 - E) The physical accessibility to necessary health care (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).
- 2) The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).
- 3) The applicant shall detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.
- 4) For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.

The applicants state that the purpose of the proposed project is to keep dialysis services accessible to a growing ESRD population in HSA-07, and address a need for 92 additional ESRD stations. The proposed project will

more specifically serve a market area within a 5-mile radius of the facility, and accommodate 80 ESRD patients in the service area expected to require dialysis in the next 24 months following project completion.

Table Four identifies facilities within a 30-minute time frame and their utilization as supplied by the applicants. As seen in the Table, 10 (67%) of the 15 facilities within a 30-minute travel radius are below the State Standard (80%), for utilization. Board Staff notes 6 of these 10 (60%) underperforming facilities are new/start-up projects with little or no data to report. Average utilization of the 4 facilities with reportable data is 63.7%.

TABLE FOUR					
Facilities within 30 minutes of US Renal Care Lemont Dialysis ⁽¹⁾					
Facility	City	Adjusted Minutes (1)	Stations	March 2012 Utilization	Met 80% Standard
FMC Lockport	Lockport	12	12	0.0%	No*
FMC Bolingbrook	Bolingbrook	15	24	84%	Yes
USRC Bolingbrook Dialysis	Bolingbrook	15	13	0.0%	No*
Silver Cross Renal Ctr.	New Lenox	16	19	70.1%	No
Palos Park Dialysis	Orland Park	17	12	1.4%	No*
FMC Dialysis Willowbrook	Willowbrook	18	16	94.8%	Yes
FMC Joliet	Joliet	23	16	0.0%	No*
FMC Orland Park	Orland Park	24	18	0.0%	No*
USRC Oak Brook Dialysis	Downers Grove	25	13	0.0%	No*
FMC Naperville	Naperville	25	16	0.0%	No*
FMC Downers Grove	Downers Grove	26	19	87.7%	Yes
FMC Naperville	Naperville	27	15	90%	Yes
FMC Lombard	Lombard	27	12	29.1%	No
FMC Crestwood	Crestwood	28	24	90.9%	Yes
FMC Alsip	Alsip	29	16	78.1%	No
1. Mileage calculated using MapQuest. Time calculated per 77 IAC 1100.510 (d)					
2. *Recently approved facility, no data available.					

The applicants cited quantifiable goals as being the ability to improve access while monitoring patient demand, and that the facility will achieve quality outcomes as demonstrated by achieving 95% of patients having a URR greater than or equal to 65%, and 97% of patients having a Kt/V greater than or equal to 1.2.

D. Criterion 1110.230(c) - Alternatives to the Proposed Project

The Criterion states:

“The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

- 1) Alternative options shall be addressed. Examples of alternative options include:**
 - A) Proposing a project of greater or lesser scope and cost;**
 - B) Pursuing a joint venture or similar arrangement with one or more providers or entities to meet all or a portion of the project's intended purposes; developing alternative settings to meet all or a portion of the project's intended purposes;**
 - C) Utilizing other health care resources that are available to serve all or a portion of the population proposed to be served by the project; and**
 - D) Other considerations.**
- 2) Documentation shall consist of a comparison of the project to alternative options. The comparison shall address issues of cost, patient access, quality and financial benefits in both the short term (within one to three years after project completion) and long term. This may vary by project or situation.**
- 3) The applicant shall provide empirical evidence, including quantified outcome data, that verifies improved quality of care, as available.”**

The applicants propose a 13-station ESRD facility. The applicants considered the following alternatives:

1. Utilize Other Health Care Resources

The applicants note the patient’s options are limited in regard to utilizing other ESRD facilities. Due to the high frequency and length of required treatments, patients must have convenient and immediate access to dialysis facilities. The applicants have identified 80 pre-ESRD patients who will require dialysis services within the next two years. This, combined with the current need for 61 additional ESRD stations in HSA-07, makes this alternative infeasible. **The applicants identified no project costs with this alternative.**

2. Propose a Project of Greater or Lesser Scope

The applicants considered projects of this nature during the planning stages of the proposed project, and note a project of lesser scope would not sufficiently meet the need for ESRD services in the area. This, combined with the 80 pre-ESRD patients anticipated to require dialysis in the next two years, make a project of lesser scope infeasible. **The applicants identified no costs with this alternative.**

3. Pursue a Joint Venture with Another Provider

The applicants rejected this alternative, based on their business model. The applicants feel the pursuit of this alternative would negate this proven model, and/or compromise the benefits realized by patients of US Renal Care, Inc. **The applicants identified costs associated with this alternative to be \$2,368,350.**

VIII. Section 1110.234 - Project Scope and Size, Utilization and Unfinished/Shell Space – Review Criteria

A) Size of Project

The Criterion states:

“The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive. The proposed gross square footage (GSF) cannot exceed the GSF standards of Appendix B, unless the additional GSF can be justified by documenting one of the following:

- 1) Additional space is needed due to the scope of services provided, justified by clinical or operational needs, as supported by published data or studies;**
- 2) The existing facility's physical configuration has constraints or impediments and requires an architectural design that results in a size exceeding the standards of Appendix B;**
- 3) The project involves the conversion of existing bed space that results in excess square footage.”**

The applicants propose to establish a 13 station ESRD facility in 6,500 GSF of leased space. The State board standard is 360-520 GSF per station. The applicants note the project is allocating 500 GSF per station, which is within the standard. The proposed project meets the spatial standards established by the State Board, and a positive finding can be made.

TABLE FIVE

SIZE OF PROJECT 12-026 US Renal Care, Lemont Dialysis				
Department /Service	Proposed BGSF/DGSF	State Standard	Difference	Met Standard?
ESRD Facility	6,500 GSF (500 GSF/Station	360-520 DGSF (6,706 GSF Overall)	20 DGSF Under per station	Yes

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE SIZE OF PROJECT CRITERION (77 IAC 1110.234(a)).

B) Criterion 1110.234 (b) - Project Services Utilization

The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. The number of years projected shall not exceed the number of historical years documented. If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall justify its own utilization standard by providing published data or studies, as applicable and available from a recognized source, that minimally include the following:

The applicants supplied a referral letter from Dr. Ahmed, M.D., Dr. Gurfinkel, M.D., Dr. Kravets, M.D., Dr. Mehta, M.D., and Dr. Nagarkatte, M.D. from Northeast Nephrology Consultants, Ltd., identifying 80 pre-ESRD patients who would be referred to the applicant's facility within two years after project completion (application p. 289). The applicants have documented by the second year after project completion (2014), they will be above the State Board's target occupancy of 80% (Application, P. 121).

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECTED SERVICES UTILIZATION CRITERION (77 IAC 1110.234(b)).

IX. Section 1110.1430 - In-Center Hemodialysis Projects - Review Criteria

A) The criterion for establishing an ESRD facility reads as follows:

- 1) 77 Ill. Adm. Code 1100 (formula calculation)**

- A) The number of stations to be established for in-center hemodialysis is in conformance with the projected station deficit specified in 77 Ill. Adm. Code 1100, as reflected in the latest updates to the Inventory.
- B) The number of stations proposed shall not exceed the number of the projected deficit, to meet the health care needs of the population served, in compliance with the utilization standard specified in 77 Ill. Adm. Code 1100.

2) Service to Planning Area Residents

- A) Applicants proposing to establish or add stations shall document that the primary purpose of the project will be to provide necessary health care to the residents of the area in which the proposed project will be physically located (i.e., the planning or geographical service area, as applicable), for each category of service included in the project.
- B) Applicants proposing to add stations to an existing in-center hemodialysis service shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected patient volume will be from residents of the area.
- C) Applicants proposing to expand an existing in-center hemodialysis service shall submit patient origin information by zip code, based upon the patient's legal residence (other than a health care facility).

3) Service Demand - Establishment of In-Center Hemodialysis Service

The number of stations proposed to establish a new in-center hemodialysis service is necessary to accommodate the service demand experienced annually by the existing applicant facility over the latest two-year period, as evidenced by historical and projected referrals, or, if the applicant proposes to establish a new facility, the applicant shall submit projected referrals. The applicant shall document subsection (b) (3) (A) and either subsection (b) (3) (B) or (C).

A) Historical Referrals

- i) If the applicant is an existing facility, the applicant shall document the number of referrals to other facilities, for each proposed category of service, for each of the latest two years.**
- ii) Documentation of the referrals shall include: patient origin by zip code; name and specialty of referring physician; name and location of the recipient facility.**

B) Projected Referrals

The applicant shall provide physician referral letters that attest to:

- i) The physician's total number of patients (by facility and zip code of residence) who have received care at existing facilities located in the area, as reported to The Renal Network at the end of the year for the most recent three years and the end of the most recent quarter;**
- ii) The number of new patients (by facility and zip code of residence) located in the area, as reported to The Renal Network, that the physician referred for in-center hemodialysis for the most recent year;**
- iii) An estimated number of patients (transfers from existing facilities and pre-ESRD, as well as respective zip codes of residence) that the physician will refer annually to the applicant's facility within a 24-month period after project completion, based upon the physician's practice experience. The anticipated number of referrals cannot exceed the physician's documented historical caseload;**
- iv) An estimated number of existing patients who are not expected to continue requiring in-center hemodialysis services due to a change in health status (e.g., the patients received kidney transplants or expired);**

- v) The physician's notarized signature, the typed or printed name of the physician, the physician's office address and the physician's specialty;
- VI) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services; and
- VI i) Each referral letter shall contain a statement attesting that the information submitted is true and correct, to the best of the physician's belief.

5) **Service Accessibility**

The number of stations being established or added for the subject category of service is necessary to improve access for planning area residents. The applicant shall document the following:

A) **Service Restrictions**

The applicant shall document that at least one of the following factors exists in the planning area:

- i) The absence of the proposed service within the planning area;
- ii) Access limitations due to payor status of patients, including, but not limited to, individuals with health care coverage through Medicare, Medicaid, managed care or charity care;
- iii) Restrictive admission policies of existing providers;
- iv) The area population and existing care system exhibit indicators of medical care problems, such as an average family income level below the State average poverty level, high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;
- v) For purposes of this subsection (b) (5) only, all services within the 30-minute normal travel time

meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.

b) **Planning Area Need Review Criterion**

The applicant shall document that the number of stations to be established or added is necessary to serve the planning area's population, based on the following:

1) **77 Ill. Adm. Code 1100 (formula calculation)**

According to the September 2012 update to the IDPH Inventory of Health Care Facilities ("Inventory"), HSA-07 shows a computed need for 61 ESRD stations by the year 2013. This project is requesting to establish a 13-station ESRD facility in 6,500 GSF of leased space in Lemont.

2) **Service to Planning Area Residents**

The primary purpose of this project is to provide in-center ESRD services to the residents of Lemont, suburban Cook County, and HSA-07. The applicants identified 80 pre-ESRD patients originating from the 93 zip codes in the service area, and note the majority of this patient base resides within a 5-mile radius of the proposed facility.

3) **Service Restrictions**

The applicants identified a service area encompassing Lemont, in HSA-07, and suburban Cook County. The applicants note the current need for 61 additional ESRD stations in the HSA, and an immediate need for dialysis services within a 5-mile radius of the proposed facility.

4) **Service Accessibility**

There is no absence of service within the planning area, no access limitation due to payor status, no restrictive admission policies of existing providers, nor does the area population and existing care system exhibit medical care problems. There are currently underutilized facilities within 30 minutes of the proposed site.

Conclusion

The applicants state the proposed facility will be located in Lemont (HSA-07). The proposed facility will serve a patient population that is more prevalent to hypertension and diabetes, (Elderly and Hispanic

population), and serve a more concentrated service area in Lemont (5-mile radius). There is a need for 61 additional ESRD stations in this planning area, however there are existing facilities that are currently underutilized. A positive finding cannot be made.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE PLANNING AREA NEED CRITERION (77 IAC 1110.1430(b)).

B) Unnecessary Duplication / Maldistribution Review Criterion/Impact of Project on Other Area Providers

- 1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:
 - A) A list of all zip code areas that is located, in total or in part, within 30 minutes normal travel time of the project's site;
 - B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and
 - C) The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide the categories of station service that are proposed by the project.
- 2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified area (within the planning area) has an excess supply of facilities, stations and services characterized by such factors as, but not limited to:
 - A) A ratio of stations to population that exceeds one and one-half times the State average;
 - B) Historical utilization (for the latest 12-month period prior to submission of the application) for existing facilities and services that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or

- C) **Insufficient population to provide the volume or caseload necessary to utilize the services proposed by the project at or above utilization standards.**
- 3) **The applicant shall document that, within 24 months after project completion, the proposed project:**
- A) **Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and**
 - B) **Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards.**

The applicants identified 15 existing facilities within an adjusted 30 minute drive radius, and Board Staff concurs with these findings (See Table 4). Board Staff found 10 (67%) of the facilities are operating beneath the target occupancy of 80%, with 6 (60%) of the 10 facilities being newly established and unable to furnish utilization data. The September 2012 Update to the ESRD Station Inventory shows a need for 61 additional ESRD stations in the service area, and the applicants concluded the ratio of stations to the current population to be 1 station per 8,215 residents. The State standard is 1 station per 3,346 residents. It does not appear a maldistribution of service will result with the establishment of this facility, however it does appear unnecessary duplication of service could occur with the establishment of an additional facility in this planning area.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT DOES NOT APPEAR TO BE IN CONFORMANCE WITH THE UNNECESSARY DUPLICATION/MALDISTRIBUTION/IMPACT OF PROJECT ON OTHER AREA PROVIDERS CRITERIA (77 IAC 1110.1430 (c) (1) (2)(3)).

C) Staffing - Availability

The Criterion states:

"The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure and JCAHO staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the

proposed staffing will be achieved.

1) Qualifications

- A) Medical Director - Medical direction of the facility shall be vested in a physician who has completed a board-approved training program in nephrology and has at least 12 months experience providing care to patients receiving dialysis.**
- B) Registered Nurse - The nurse responsible for nursing services in the unit shall be a registered nurse (RN) who meets the practice requirements of the State of Illinois and has at least 12 months experience in providing nursing care to patients on maintenance dialysis.**
- C) Dialysis Technician - This individual shall meet all applicable State of Illinois requirements (see 210 ILCS 62, the End Stage Renal Disease Facility Act). In addition, the applicant shall document its requirements for training and continuing education.**
- D) Dietitian - This individual shall be a registered dietitian with the Commission on Dietetic Registration, meet the practice requirements of the State of Illinois (see the Dietetic and Nutrition Services Practice Act [225 ILCS 30]) and have a minimum of one year of professional work experience in clinical nutrition as a registered dietitian.**
- E) Social Worker - The individual responsible for social services shall have a Master's of Social Work and meet the State of Illinois requirements (see 225 ILCS 20, the Clinical Social Work and Social Work Practice Act)."**

The applicants are proposing to establish a 13-station ESRD facility and have provided the necessary information as required by this criterion on pages 165-185 of the application for permit. The applicants have met the requirements of this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE STAFFING CRITERION (77 IAC 1110.1430 (e) (1)).

D) Support Services

The Criteria states:

"An applicant proposing to establish an in-center hemodialysis category of service must submit a certification from an authorized representative that attests to each of the following:

- 1) Participation in a dialysis data system;
- 2) Availability of support services consisting of clinical laboratory service, blood bank, nutrition, rehabilitation, psychiatric and social services; and
- 3) Provision of training for self-care dialysis, self-care instruction, home and home-assisted dialysis, and home training provided at the proposed facility or the existence of a signed, written agreement for provision of these services with another facility."

The applicants are proposing to establish a 13-station ESRD facility and have provided the necessary notarized documentation as required by this criterion on page 186 of the application for permit.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE SUPPORT SERVICES CRITERION (77 IAC 1110.1430 (f)).

E) Minimum Number of Stations

The minimum number of in-center hemodialysis stations for an End Stage Renal Disease (ESRD) facility is:

- 1) Four dialysis stations for facilities outside an MSA;
- 2) Eight dialysis stations for a facility within an MSA.

The proposed 13-station ESRD facility will be located in an MSA. The applicants have met the requirements of this criterion

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE MINIMUM NUMBER OF STATIONS CRITERION (77 IAC 1110.1430 (g)).

F) Continuity of Care

An applicant proposing to establish an in-center hemodialysis category of service shall document that a signed, written affiliation agreement or arrangement is in effect for the provision of inpatient care and other hospital services. Documentation shall consist of copies of all such agreements.

The applicants have provided the required affiliation agreement on pages 189-196 of the application for permit. The transfer agreement is with Provena St. Joseph Medical Center, Joliet. The applicants have met the requirements of this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE CONTINUITY OF CARE CRITERION (77 IAC 1110.1430 (h)).

G) Assurances

The Criterion states:

"The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that:

- 1) By the second year of operation after the project completion, the applicant will achieve and maintain the utilization standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal; and**
- 2) An applicant proposing to expand or relocate in-center hemodialysis stations will achieve and maintain compliance with the following adequacy of hemodialysis outcome measures for the latest 12-month period for which data are available:
≥ 85% of hemodialysis patient population achieves urea reduction ratio (URR) ≥ 65% and ≥ 85% of hemodialysis patient population achieves Kt/V Daugirdas .1.2."**

The applicants provided the required certification information on page 197 of the application for permit as required of the criterion. The applicants note USRC patients have achieved the following clinical outcomes in the past year, and expect the same to occur with patients at US Renal Care Lemont Dialysis.

- 85% of patients had a URR ≥ 65%
- 85% of patients had a Kt/V ≥ 1.2

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE ASSURANCES CRITERION (77 IAC 1110.1430 (j)).

X. 1120.120 - Availability of Funds

The applicant shall document that financial resources shall be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources.

The applicants are funding the project with cash and securities totaling

\$1,082,534, and the FMV of the leases totaling \$1,285,816. A review of audited financial statements supplied by the applicants indicates sufficient cash is available to fund the project.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE AVAILABILITY OF FUNDS CRITERION (77 IAC 1120.120 (a)).

XI. 1120.130 - Financial Feasibility

A. Criterion 1120.130 - Financial Viability

Financial Viability Waiver

The applicant is NOT required to submit financial viability ratios if:

- 1) all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or**

HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.

- 2) the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA), or its equivalent; or**

HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.

- 3) the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.**

The applicants have qualified for the financial waiver because the project is being funded with internal sources including capital expended through a lease. The applicants are funding the project with cash and securities of \$1,082,534, and the FMV of the lease of \$1,285,816. A review of the applicants' audited financial statements indicates that sufficient cash is available to fund the project. Below is the credit rating of the two rating

agencies on the ability of a corporation to meet its financial obligation on time and in full. **These rating are the opinions of these two rating firms.**

TABLE SIX US Renal Credit Ratings		
	Standard & Poor's	Moody's
US Renal Care Credit Rating	B	B2
B- Highly speculative BB – Less vulnerable in the near-term but faces major ongoing uncertainties to adverse business, financial and economic conditions. Ba1 -Speculative investment. Occurs often in deteriorated circumstances, usually problematic to predict future development BB - ratings indicate an elevated vulnerability to default risk, particularly in the event of adverse changes in business or economic conditions over time; however, business or financial flexibility exists which supports the servicing of financial commitments Ba3 – Questionable credit quality BB-1 – Prone to changes in the economy A minus sign (-) signifies an intermediate rating in each category		

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE FINANCIAL FEASIBILITY CRITERION (77 IAC 1120.130 (a)).

XII. Section 1120.140 - Economic Feasibility

A. Criterion 1120.140(a) - Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or
- 2) That the total estimated project costs and related costs will be funded in total or in part by borrowing because:
 - A) A portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or

B) Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.

The applicants are funding the project with cash and securities of \$1,082,534, and the FMV of the lease of \$1,285,816. The applicants have provided documentation of internal funding sources for the proposed project, and this criterion is inapplicable.

THE STATE BOARD STAFF FINDS THE REASONABLENESS OF FINANCING ARRANGEMENTS CRITERION IS INAPPLICABLE TO THE PROPOSED PROJECT (77 IAC 1120.140(a)).

B. Criterion 1120.140(b) - Terms of Debt Financing

This criterion is applicable only to projects that involve debt financing. The applicant shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;**
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;**
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.**

The applicants are funding the project with cash and securities of \$1,082,534, the FMV of the lease of \$1,285,816. The applicants have provided documentation of internal funding sources for the proposed project, and this criterion is inapplicable

THE STATE BOARD STAFF FINDS THE TERMS OF DEBT FINANCING CRITERION IS INAPPLICABLE TO THE PROPOSED PROJECT (77 IAC 1120.140(b)).

C. Criterion 1120.140(c) - Reasonableness of Project Cost

The applicant shall document that the estimated project costs are reasonable and shall document compliance with the State Board's standards as detailed in 77 IAC 1120.

Modernization Contracts and Contingencies - These costs total \$715,000 or \$110.00 per gross square feet. ($\$715,000 / 6,500 \text{ GSF} = \$110.00 / \text{GSF}$) This appears **reasonable** when compared to the State Board standard of \$168.09/GSF.

Contingencies - The applicants report no planned contingencies costs for this project.

Architect and Engineering Fees - These costs total \$55,000 or 7.6% of modernization costs. This appears reasonable when compared to the State Board standard of 7.05-10.59 % of modernization and contingency costs.

Moveable Equipment - These costs total \$82,555 or \$6,350 per station. This appears reasonable when compared to the State Board standard of \$39,945.

Consulting & Other Fees - These costs total \$30,000. The State Board does not have a standard for these costs.

Other Costs to be Capitalized - These costs total \$90,542. The State Board does not have a standard for these costs.

Fair Market Value of Leased Space/Equipment - These costs are \$1,285,816. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE REASONABLENESS OF PROJECT COST CRITERION (77 IAC 1120.140 (c)).

D) Criterion 1120.140 (d) - Projected Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct cost means the fully allocated costs of salaries, benefits and supplies for the service.

The applicants anticipate the direct operating costs per treatment to be \$238.10. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE PROJECT DIRECT OPERATING COSTS CRITERION (77 IAC 1120.140 (d)).

E) Criterion 1120.140 (e) - Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

The applicants anticipate the total effect of the Project on Capital Costs per treatment to be \$20.98. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT APPEARS TO BE IN CONFORMANCE WITH THE TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS CRITERION (77 IAC 1120.140 (e)).

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